

# HOGAN & HARTSON L.L.P.

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## IMPORTANT NOTICE TELECOPY/FACSIMILE COVER LETTER

TO: FARRA  
Deposit Account

DATE: 12,005  
July 7, 2005

FROM: Carol W. Burton, Esq./  
DeAnn Sandoval

TIME: 3:40 pm  
10:00 a.m.

TOTAL NO. OF PAGES, INCLUDING COVER: 2

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### MESSAGE:

Farra,

In review of our Deposit Account Statement, we note two entries (circled and starred on attached) which do not belong to our firm, Hogan & Hartson, LLP. One belongs to Richard Holzer, Denver, CO and the other belongs to Phillips Intellectual Property & Standards, NY. Please remove from our account accordingly.

Thank you in advance for your assistance. Should you have any questions, please call DeAnn Sandoval at 303 454.2453.

Thank you.

### FOR INTERNAL PURPOSES ONLY

TELECOPY/FAX NUMBER: 203.308.6778 571.273.6500  
CLIENT NUMBER: 73049.0333  
ATTORNEY BILLING NUMBER: 3049  
CONFIRMATION NUMBER: 703.305.4631



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**Deposit Account Statement**

Requested Statement Month: June 2005  
Deposit Account Number: 501123  
Name: HOGAN & HARTSON  
Attention: MS. JODY DEUTSCH  
Address: 1200-17TH STREET  
City: DENVER  
State: CO  
Zip: 80202  
Country: UNITED STATES OF AMERICA

| DATE  | SEQ  | POSTING<br>REF TXT | ATTORNEY<br>DOCKET<br>NBR | FEE<br>CODE | AMT         | BAL         |
|-------|------|--------------------|---------------------------|-------------|-------------|-------------|
| 06/03 | 1    | 10788044           | ARR001 CIP2               | 1202        | \$300.00    | \$5,231.00  |
| 06/07 | 82   | E-REPLENISHMENT    |                           | 9203        | -\$5,995.00 | \$11,226.00 |
| 06/08 | 1    | 10721940           | 70999.0020                | 2251        | \$60.00     | \$11,166.00 |
| 06/14 | 4    | 10798818           | 233-524-DV1               | 1814        | \$130.00    | \$11,036.00 |
| 06/15 | 368  | 10503790           | AN11728(P5)US             | 1251        | \$120.00    | \$10,916.00 |
| 06/16 | 6    | 09853938           | NL 000254                 | 1201        | \$200.00    | \$10,716.00 |
| 06/21 | 53   | 10811628           |                           | 9204        | -\$300.00   | \$11,016.00 |
| 06/22 | 79   | 11103772           |                           | 8021        | \$40.00     | \$10,976.00 |
| 06/27 | 1665 | 11110324           |                           | 8021        | \$40.00     | \$10,936.00 |
| 06/27 | 1731 | 60522340           | INFO0001 PRO              | 8021        | \$40.00     | \$10,896.00 |
| 06/27 | 1931 | 10339133           | SRC001 CON2               | 8021        | \$40.00     | \$10,856.00 |
| 06/28 | 773  | 11112613           |                           | 8021        | \$40.00     | \$10,816.00 |
| 06/29 | 29   | 09835839           | CIRC021                   | 2253        | \$510.00    | \$10,306.00 |
| 06/29 | 68   | 60594284           | WRAY0019 PRO              | 1005        | \$200.00    | \$10,106.00 |

|                  |                   |                     |                |
|------------------|-------------------|---------------------|----------------|
| START<br>BALANCE | SUM OF<br>CHARGES | SUM OF<br>REPLENISH | END<br>BALANCE |
| \$5,531.00       | \$1,720.00        | \$6,295.00          | \$10,106.00    |

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Highlighted entries above do NOT  
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Deanna  
(P) (303) 454-2453

PTO/SB/26 (09-04)

Approved for use through 07/31/2006, OMB 0951-0031

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)  
MCD111DN/233-524-DV1

In re Application of: Nelson et al.

Application No.: 10/798,818

Filed: March 10, 2004

For: McDATA Corporation and IBM Corporation

The owner, McDATA Corporation, of 50 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,728,803 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer." In the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is released; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 42,668

Signature

5-3-05

Date

Adjustment Date: 09/08/2005 SDIRETA1  
06/14/2005 JDDBBS 00000004 501123 10798818  
01 FC:1814 130.00 CR

Richard J. Holzer, Jr.  
Typed or printed name

720-377-0774

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT.**Docket Number (Optional)  
MCD111DIV/233-624-DV1

In re Application of: Netson et al.

Application No.: 10/798,818

Filed: March 10, 2004

For: McDATA Corporation and IBM Corporation

**RECEIVED  
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The owner, IBM Corporation, of 50 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,728,803 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 42,668

  
Signature5-3-05  
DateRichard J. Holzer, Jr.  
Typed or printed name720-377-0774  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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PTO/GB/17 (12-04/2)

Approved for use through 07/31/2008. OMB 0851-0032

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4318).

**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 260

**Complete if Known**

|                      |                       |
|----------------------|-----------------------|
| Application Number   | 10/798,818            |
| Filing Date          | March 10, 2004        |
| First Named Inventor | Jeffrey J. Nelson     |
| Examiner Name        | Marcelo, Melvin C.    |
| Art Unit             | 2862                  |
| Attorney Docket No.  | MCD111D/V/233-524-DV1 |

**METHOD OF PAYMENT (check all that apply)**
☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 50-3199 Deposit Account Name: Hensley Kim & Edgington

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES |                       | SEARCH FEES |                       | EXAMINATION FEES |                       | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
|                  | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)         | Small Entity Fee (\$) |                |
| Utility          | 300         | 150                   | 500         | 250                   | 200              | 100                   |                |
| Design           | 200         | 100                   | 100         | 50                    | 130              | 65                    |                |
| Plant            | 200         | 100                   | 300         | 150                   | 160              | 80                    |                |
| Reissue          | 300         | 150                   | 500         | 250                   | 600              | 300                   |                |
| Provisional      | 200         | 100                   | 0           | 0                     | 0                | 0                     |                |

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

| Total Claims | Extra Claims | Fee (\$) | Fees Paid (\$) |
|--------------|--------------|----------|----------------|
|--------------|--------------|----------|----------------|

|              |   |  |  |
|--------------|---|--|--|
| - 20 or HP = | x |  |  |
|--------------|---|--|--|

HP = highest number of total claims paid for, if greater than 20.

| Indep. Claims | Extra Claims | Fee (\$) | Fees Paid (\$) |
|---------------|--------------|----------|----------------|
|---------------|--------------|----------|----------------|

|             |   |  |  |
|-------------|---|--|--|
| - 3 or HP = | x |  |  |
|-------------|---|--|--|

HP = highest number of independent claims paid for, if greater than 3.

| Fee (\$)                  | Small Entity Fee (\$) |
|---------------------------|-----------------------|
| 50                        | 25                    |
| 200                       | 100                   |
| 360                       | 180                   |
| Multiple Dependent Claims |                       |
| Fee (\$)                  | Fees Paid (\$)        |

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(e).

| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fees Paid (\$) |
|--------------|--------------|--|----------|----------------|
|--------------|--------------|--|----------|----------------|

|         |        |                                |  |  |
|---------|--------|--------------------------------|--|--|
| - 100 = | / 50 = | (round up to a whole number) x |  |  |
|---------|--------|--------------------------------|--|--|

Fees Paid (\$)

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Two terminal disclaimer fees of \$130 each

260

**SUBMITTED BY**

Signature

Registration No. 42,668  
(Attorney/Agent)

Telephone 720-377-0774

Name (Print/Type) Richard S. Holzer, Jr.

Date May 3, 2005

This collection of information is required by 37 CFR 1.134. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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